

11-13-06

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PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/928,726
Filing Date	08/13/2001
First Named Inventor	Jaeger
Art Unit	2674
Examiner Name	Eisen
Attorney Docket Number	4143/CIP-3

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OFFICE OF PETITIONS**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): PTO Reply Postcard; Exhibits to Petition (24 pp.)
<input type="checkbox"/> Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Zimmerman, & Cronen, LLP		
Signature			
Printed name	Harris Zimmerman		
Date	11/08/2006	Reg. No.	16,437

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Harris Zimmerman	Date	11/08/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EV807484194US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

~~11~~

Applicant: Denny Jaeger

Examiner: Alexander Eisen

Serial No. 09/928,726

Filed 08/13/2001

For: Method and Apparatus for Detecting Activation
of a Controller Device

Group Art Unit: 2674

Docket 4143/CIP-3

Mail Stop Petitions
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

RENEWED PETITION UNDER 37 CFR 1.181

This Petition is respectfully submitted to withdraw a holding of abandonment of the above application under 37 CFR 1.181.

On September 24, 2004, Applicant filed a "PETITION TO REVIVE ABANDONED APPLICATION PURSUANT TO F.R.C.P. §1.181", following receipt of a "Notice of Abandonment" dated September 14, 2004, which stated that the application was abandoned in view of "Applicant's failure to timely file a proper reply to the office letter mailed on 06 January, 2004."

As pointed out in such Petition, the Notice of Abandonment was sent out in error for the following reasons:

On January 6, 2004, the examiner in the above application, Alexander Eisen, issued an Office Action in which certain claims were allowed, one claim was rejected over the prior art, and other claims rejected solely on the grounds that they were dependent upon rejected base claims, but would be allowable if rewritten in independent form.

Applicant, well within the statutory period for response, filed an Amendment, dated 01/23/04 and a transmittal form, and sent the material to the Patent Office. Copies of all the above material, including

the United States Post Office Express Mail receipt dated January 23, 2004 are enclosed, as well as a postcard acknowledgment dated January 23, 2004 from the United States Patent and Trademark Office.

From this material, it is clear that Applicant timely responded to the Office letter of January 6, 2004, and that the Patent Office not only received the documents, but acknowledged such receipt by stamping the postcard.

A copy of the United States Post Office Express Mail receipt, dated 9/24/04 (the date of the mailing of the Petition), is enclosed, together with a copy of the PTO acknowledgement of Application's postcard accompanying the Petition, also bearing the September 24, 2004 date.

No action was received from the PTO on the Petition, and on or about September 18, 2006, Applicant's counsel phoned the Petitions Office and spoke to a Denise Pothier, a Petitions Examiner, who stated that the Petition we had filed two years earlier had not been signed, and requested me to fax her a signed copy of our Petition to Revive and all of the supporting material previously submitted with our Petition on September 14, 2004. On September 18, 2006, a 23 page fax was sent to Examiner Pothier. A copy of the ^eletter and a copy of the fax log is enclosed. The other 22 pages consisted of copies of the original material submitted with the Petition.

On October 30, 2006, a decision dismissing our Petition was issued on the ground that the Petition does not contain a signature. This requirement was fully met with the material sent to Petitions Examiner Pothier on September 18, 2006. It is my understanding that Mr. Cliff Congo, the Petitions Attorneys signing the October 30, 2006 decision was unaware of my faxed material sent to Petitions Examiner Pothier.

The present renewed Petition includes a signature by counsel, and it is now believed that this Petition should be granted, and such action is respectfully requested.


It is accordingly requested that this application be reinstated and that a further action on the merits of the case be sent out, which should be a Notice of Allowance since the one rejected claim was

cancelled, and the formal objections complied with.

If, for any reason, this renewed Petition to withdraw the holding of abandonment is denied, it is requested that this same Petition be considered a Petition to Revive under 37 C.F.R. §1.137(a) or (b) and any charges or fees in connection with the same may be charged to Applicant's account in the United States Patent Office, No. 26-0265.

Dated: November 8, 2006

Respectfully submitted,

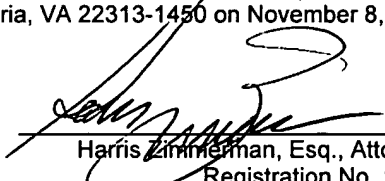


Harris Zimmerman
Registration No. 16,437
1330 Broadway, Suite 710
Oakland, California 94612
(510) 465-0828

Attorney for Applicant

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 8, 2006

Date: November 8, 2006



Harris Zimmerman, Esq., Attorney for Applicant
Registration No. 16,437

ZIMMERMAN & CRONEN, LLP

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(510) 465-0828 FAX: (510) 465-2041

ZIMPAT@ZIMPATENT.COM

HARRIS ZIMMERMAN

MICHAEL JAMES CRONEN

PATENTS

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UNFAIR COMPETITION



FAX TRANSMISSION

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OFFICE OF PETITIONS

Denise Pothier

Fax # (571) 273-4787

Petitions Examiner

Re; Petition to Revive U.S. Ser. 09/928,726, filed 08/31/2001 (Docket 4143/CIP-3)

Dear Ms Pothier:

Thank you for the telephone call today. In accordance with your request, I am enclosing a complete copy of our Petition to Revive, a copy of the Petition signed by me, and all of the supporting material previously submitted on September 14, 2004.

I hope that the matter can now be expeditiously handled, and a patent issued in due course to the Applicant. As previously authorized in the Fee Transmittal Form, any additional fees may be charged to my Deposit Account.

Thank you for your cooperation.


Harris Zimmerman

HP Fax K1220

Lo...r
HARRIS ZIMMERMAN
5104652041
Sep 18 2006 3:19pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Sep 18	3:12pm	Fax Sent	15712734787	7:02	23	OK



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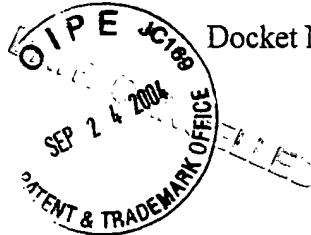
OFFICE OF PETITIONS

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 24, 2004

Docket No. 4143/CIP-3
(Jaeger)

Re: Serial No. 09/928,726
Filed: 08/31/2001



Enclosed is a Transmittal Form, a Petition to Revive and a Fee transmittal Form.

Kindly acknowledge receipt of the above by stamping the date on this card and returning the same to me. Thank you. Harris Zimmerman



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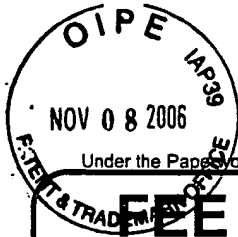
ORIGIN (POSTAL USE ONLY)				DELIVERY (POSTAL USE ONLY)			
PO ZIP Code 94115	Day of Delivery <input type="checkbox"/> Next <input checked="" type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>		Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Date In 4/24/04 Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 13.65		Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Time In 2:00 PM <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee		Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Weight 4 lbs. 0 oz.	Int'l Alpha Country Code	COD Fee	Insurance Fee	<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.			
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials L	Total Postage & Fees \$ 13.65		<input type="checkbox"/> NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday			
CUSTOMER USE ONLY METHOD OF PAYMENT: Express Mail Corporate Acct. No. 2940330				Federal Agency Acct. No. or Postal Service Acct. No.			
FROM: (PLEASE PRINT) LAW OFFICE OF HARRIS ZIMMERMAN 1390 BROADWAY STE 710 OAKLAND CA 94612-2506 L 4143/CIE-3 (Jaeger)				TO: (PLEASE PRINT) Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450			

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PTO/SB/17 (10-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$) 0

Complete if Known

Application Number	09/928,726	RECEIVED
Filing Date	08/13/04	
First Named Inventor	Jaeger	NOV 14 2006
Examiner Name	Eisen	
Art Unit	2674	OFFICE OF PETITIONS
Attorney Docket No.	4143/CIP-3	

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
Deposit Account Name

26-0265

Harris Zimmerman

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)				(\$)	

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Harris Zimmerman	Registration No. (Attorney/Agent)	16,437	Telephone	510-465-0828
Signature		Date	09/24/2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Denny Jaeger

Examiner: Alexander Eisen

Serial No. 09/928,726

Filed 08/13/2001

For: Method and Apparatus for Detecting Activation
of a Controller Device

Group Art Unit: 2674

Docket 4143/CIP-3

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Commissioner of Patents
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Alexandria, VA 22313-1450

OFFICE OF PETITIONS

PETITION TO REVIVE ABANDONED APPLICATION PURSUANT TO F.R.C.P. §1.181

This Petition is respectfully submitted to revive an allegedly abandoned application above identified.

On September 14, 2004, the PTO issued a "Notice of Abandonment", stating that the application was abandoned in view of "Applicant's failure to timely file a proper reply to the Office letter mailed on 06 January 2004."

This Notice of Abandonment was obviously sent out in error for the following reasons:

On January 6, 2004, the examiner, Alexander Eisen, issued an Office Action in which certain claims were allowed, one claim was rejected over the prior art, and other claims rejected solely on the grounds that they were dependent upon rejected base claims, but would be allowable if rewritten in independent form.

Applicant, well within the statutory period for response, filed an Amendment, dated 01/23/04 and a transmittal form, and sent the material to the Patent Office. Copies of all the above material, including the United States Post Office Express Mail receipt dated January 23, 2004 are enclosed, as well as a postcard acknowledgment dated January 23, 2004 from the United States Patent and Trademark Office.

From this material, it is clear that Applicant timely responded to the Office letter of January 6,

. 2004 and that the Patent Office not only received the documents, but acknowledged such receipt by stamping the postcard.

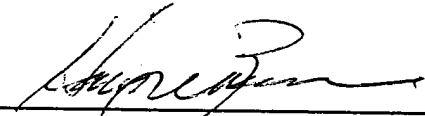
It is accordingly requested that this application be reinstated and that a further action on the merits of the case be sent out, which should be a Notice of Allowance since the one rejected claim was cancelled, and the formal objections complied with.

If, for any reason, this Petition to withdraw the holding of abandonment is denied, it is requested that this same Petition be considered a Petition to Revive under 37 C.F.R. §1.137(a) or (b) and any charges or fees in connection with the same may be charged to Applicant's account in the United States Patent Office, No. 26-0265.

As stated above, copies of all the relevant documents referred to above, including the Amendment which was submitted by Applicant's counsel on January 23, 2004 are enclosed.

Dated: September 24, 2004

Respectfully submitted,

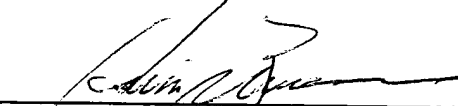


Harris Zimmerman
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1330 Broadway, Suite 710
Oakland, California 94612
(510) 465-0828

Attorney for Patentee

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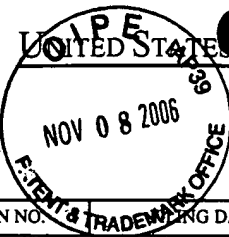
Date: September 24, 2004



Harris Zimmerman, Esq., Attorney for Patentee
Registration No. 16,437



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,726	08/13/2001	Denny Jaeger	4143/CIP-3	7153

7590

09/14/2004

Harris Zimmerman
Law Offices of Harris Zimmerman
Suite 710
1330 Broadway
Oakland, CA 94612-2506

EXAMINER

EISEN, ALEXANDER

ART UNIT	PAPER NUMBER
----------	--------------

2674

8

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

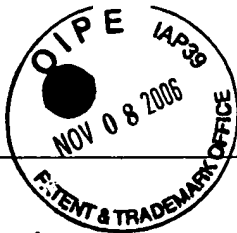
HARRIS ZIMMERMAN

SFP 20 2004

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OFFICE OF PETITIONS



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Notice of Abandonment

Application No.

09/928,726

Examiner

Alexander Eisen

Applicant(s)

JAEGER, DENNY

Art Unit

2674

OFFICE OF PETITIONS

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 06 January 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Alexander Eisen
Primary Examiner
Art Unit: 2674

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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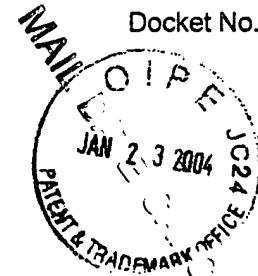
OFFICE OF PETITIONS

Mail Stop AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 23, 2004

Docket No. 4143/CIP-3
(Jaeger)

Re: Serial No. 09/928,726
Filed: 08/13/2001
Inventor: Jaeger



Enclosed is an Transmittal Form, Amendment After Final Rejection, and Reply Card.

Kindly acknowledge receipt of the above by stamping the date on this card and returning the same to me. Thank you.

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Label 11-F June 200



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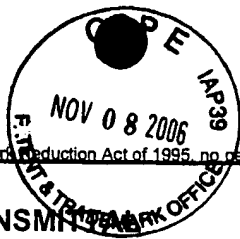
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Application Number 09/928,726

Filing Date 08/13/2001

First Named Inventor Jaeger

Art Unit 2674

Examiner Name Nguyen

Attorney Docket Number 4143/CIP-3

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harris Zimmerman Law Offices of Harris Zimmerman
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